

City of Pleasant Hill
Community Development Department/Planning Division
Informational Memorandum
January 5, 2004

Status of Adult Use Development Permit Application

On November 26, 2003 the Planning Division received an application on behalf of Shizue Enterprises, Inc. for an Adult Use Development Permit, UP 03-018. The applicant proposes to operate an adult business called Secrets Adult Boutique at 525 Contra Costa Boulevard in a 3,061 square foot portion of the former The Bedroom store, between the frontage of Contra Costa Boulevard and I-680. The business would sell DVDs, videos, novelties, and magazines. There would be no live adult entertainment.

Planning staff reviewed the application and determined it to be complete. The Planning Commission public hearing is scheduled for Tuesday, February 24, 2004.

The purpose of this memo is to afford the public an overview of the Adult Use Development Permit regulations and process.

An informational meeting will be held by the City on Wednesday, January 21, 2004 to provide an overview for residents and business operators/owners who may be interested in this application. This meeting will be from 7:00 to 9:00 P.M., held in the Council Chambers at City Hall, 100 Gregory Lane.

Adult Uses Ordinance

The City's Adult Uses Ordinance was adopted by the City Council in 1998 as Division 35-20 of the zoning ordinance. The ordinance was approved after an extended process of public hearings and task force meetings following an attempt to close or relocate the former adult store at the current Lingerie Etc. location at 2298 Monument Boulevard. The current Lingerie Etc. store is not an adult business according to the provisions of the Adult Uses Ordinance and a settlement agreement between the former store operator and the City.

An adult business is classified by the ordinance as:

- "Any business establishment or concern which as a regular and substantial course of conduct operates as an adult bookstore, adult theater, adult arcade, adult cabaret, adult figure modeling studio, adult motel or hotel; or
- Any business establishment or concern which as a regular and substantial course of conduct offers, sells or distributes adult oriented merchandise or sexually oriented merchandise, or which offers to its patrons materials, products, merchandise, services or entertainment characterized by an emphasis on matters

depicting, describing, or relating to "specified sexual activities" or "specified anatomical parts," but not including those uses or activities which are preempted by State law.”

Adult businesses may be located only on properties that are designated by the General Plan as *Commercial*, *Mixed Use*, or *Industrial*. The property at 525 Contra Costa Boulevard is designated *Commercial*.

Adult Use Development Permit Criteria

No adult business shall be allowed in the city without first obtaining an Adult Use Development Permit from the Planning Commission. According to the ordinance, the Commission shall approve or conditionally approve a permit where the information submitted by the applicant substantiates the following findings:

1. That the proposed use complies with the development and design requirements of the underlying zoning district in which it is located and with the applicable standards of this division;
2. That the proposed use and its projected traffic generation are consistent with achieving or maintaining the established level of service set forth in the City’s Circulation and Growth Management Elements. If the City’s established Level of Service is already exceeded, then the proposed use and its projected traffic generation will not result in a net increase in the Level of Service;
3. That the proposed site is adequately served by other public and private service facilities consistent with the City’s established level of services as set forth in the City’s Growth Management Element for the requested use;
4. That the proposed site is not located within a five hundred (500) foot radius of a Residential Land Use Designation;
5. That the proposed site is not located within an eight hundred (800) foot radius of a school or Park Land Use Designation;
6. That the proposed site is not located within an eight hundred (800) foot radius of a religious institution;
7. That the proposed site is not located within a thousand (1,000) feet of any other adult use regulated under this division that is located either within or outside the jurisdiction of the City;
8. That the proposed site is not located within five hundred (500) feet of a residential district, eight hundred (800) feet of a park or school as designated on the General Plan Land Use Element of an adjacent jurisdiction or eight hundred (800) feet of a religious institution that is located in an adjacent

jurisdiction and is the subject of a validly approved land use entitlement; and

9. That neither the applicant, if an individual, or any of the officers or general partners, if a corporation or partnership, have been found guilty or pleaded *nolo contendere* within the past four (4) years of a misdemeanor or a felony classified by the state as a sex or sex-related offense.

Any conditions imposed upon the permit shall be in keeping with the objective development standards of the Adult Uses Ordinance and the underlying zoning district in which the property is located.

Locational Limitations

The Adult Use Ordinance establishes separation requirements to minimize negative secondary impacts with sensitive land uses in the surrounding area of a proposed adult business. No adult business is lawful unless it is separated from the following sensitive lands uses: Residential land use designation, a school or Park land use designation, a religious institution, or any other adult use (defined by the ordinance) located either inside or outside the jurisdiction of the City.

The distance between a proposed adult business and an affected use designation shall be measured from the nearest exterior wall of the facility housing the adult use or proposed adult use to the nearest property line included within the affected use designation, along a straight line extended between the two points.

Appeals

Any decision of the Planning Commission may be appealed to the City Council for final action.

Revocation Criteria

Any Adult Use Development Permit issued pursuant to the provisions of the Adult Uses Ordinance may be revoked by the City on the basis of any of the following:

1. That the business or activity has been conducted in a manner which violates one or more of the conditions imposed upon the issuance of the permit or which fails to conform to the plans and procedures described in the application, or which violates the occupant load limits set by the Fire Marshall;
2. That the permittee failed to obtain or maintain all required City, County, and State licenses and permits;

3. That the permit was used to conduct an activity different from that for which it was issued;
4. That the permittee misrepresented a material fact in the application for permit or did not answer each question therein truthfully;
5. That due to changes in on-site conditions, the adult business lacked sufficient on-site parking area for employees and the public under the standards set forth in the City's parking code, except for an existing use that is legal and nonconforming with respect to parking;
6. That the building or structure in which the adult business was conducted was hazardous to the health or safety of the employees or patrons of the business or of the general public under the standards set forth in the Uniform Building, Uniform Plumbing or Uniform Fire Code;
7. That the permitted business creates sound levels which violate the Noise Control Ordinance of the City;
8. That the permittee, if an individual, or any of the officers or general partners, if a corporation or partnership is found guilty or pleaded *nolo contendere* to a misdemeanor or felony classified by the state as a sex or sex-related offense during the period of the adult establishment's operation; or
9. That the use for which the approval was granted has ceased to exist or has been suspended for six (6) months or more.

Processing

The City hired a professional urban planning consultant, David Hubbell, to process this application. Here is a tentative processing schedule:

- Application for completeness (completed on December 26, 2003)
- Public informational meeting (to be held on January 21, 2004)
- Planning Commission public hearing (February 24, 2004)
- City Council appeal hearing (March or April, 2004)

Questions?

If you have any questions, please do not hesitate to email planning consultant David Hubbell at dhubbell@ci.pleasant-hill.ca.us or call (925) 671-5209.